
Public Utilities Commission of the State of California

Results of Public Agenda 3123

Meeting Held on Thursday, November 13, 2003 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <i>Open to the Public</i>
Monday, December 01, 2003 (San Francisco)	Thursday, December 04, 2003 (San Francisco)
Monday, December 15, 2003 (San Francisco)	Thursday, December 18, 2003 (San Francisco)
Monday, January 05, 2004 (San Francisco)	Thursday, January 08, 2004 (San Francisco)
Friday, January 16, 2004 (San Francisco)	Thursday, January 22, 2004 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



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PUBLIC COMMENT

The following items are not subject to public comment:

- **All items on the closed session agenda; these are HEX and EX items.**
-

Public Comment:

Re 32: Dottie Escue, Retro Tech, Alameda, CA

Re 38: Debra Kaplan, World Institute on Disability, Oakland, CA

Re 50:

Bryan Martin, 8x8, Inc., Campbell, CA

David Simpson, California Internet Service Providers Association, San Francisco, CA

Jim Hawley, TechNet, Palo Alto, CA

Michael C. Sloan, Swidler Berlin, on behalf of Vonage, Washington, D.C.

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Orders and Resolutions

1

[2605]

A03-02-001 - Zephyr Communications, L.L.C. (Applicant).

This decision grants Applicant a certificate of public convenience and necessity under Pub. Util. Code § 1001 to provide local exchange, resold intraLATA and InterLATA telephone service, and hi-speed data services. This proceeding is closed.

(Comr Brown - ALJ Bemederfer)

Agenda 3119, Item 7 9/18/2003 (Wood);

Agenda 3120, Item 4 10/2/2003 (Brown);

Agenda 3121, Item 3 10/16/2003 (Wood);

Agenda 3122, Item 1 10/30/2003 (Staff)

Outcome Held (12/4/03, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

2

[2746]

Res ALJ 176-3123

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

3

[2711]

A03-05-017 - SBC California (SBC).

This decision grants SBC authority to lease small amounts of space in three central office buildings to its affiliate SNET Diversified Services, Inc. under G.O. 69-C and dismisses §851 application. This proceeding is closed.

(Comr Kennedy - ALJ Bemmesderfer)

Agenda 3121, Item 6 10/16/2003 (Lynch);

Agenda 3122, Item 3 10/30/2003 (Staff)

Outcome Signed

D03-11-007

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

4

[2740]

C03-06-029 - Stewart Valley Homeowners Association vs. SBC Pacific Bell (SBC).

This decision grants SBC's motion to dismiss complaint. This proceeding is closed.

(Comr Brown - ALJ Walker)

Agenda 3122, Item 4 10/30/2003 (Staff)

Outcome Signed

D03-11-008

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

5

[2820]

A03-06-037 - Brenda Mason, dba A Car 4 Kids (Applicant).

This decision authorizes Applicant to operate as a passenger stage corporation to transport children between points in Contra Costa, Alameda, and San Francisco Counties, and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

Agenda 3121, Item 27 10/16/2003 (Staff);

Agenda 3122, Item 9 10/30/2003 (Staff)

Outcome Held (12/4/03, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

6

[2865]

A02-12-033 - Pacific Gas and Electric Company and William L. Brickner.

For an Order authorizing the sale and conveyance of a certain parcel of land in Alameda County pursuant to the Public Utilities Code Section 851. This decision approves transfer of transmission-related property but declines to assign "gain-on-sale" proceeds. This proceeding is closed.

(Comr Brown - ALJ Thorson)

Outcome Held (12/4/03, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

7

[2899]

A03-07-030 - Southern California Edison Company (SCE).

This decision grants SCE authority to issue \$3.0 billion Debt Securities and \$300 million Preferred Stock; some exemptions from the Competitive Bidding Rule. This proceeding is closed.

(Exam Jackson)

Outcome Held (12/4/03, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

8

[2900]

R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code § 761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.

This decision grants the October 6, 2003 motion of High Desert Power Project, LLC (HDPP) to delete and replace appearances, names HDPP as a respondent, directs HDPP to serve a letter within five days regarding an electronic mail address, deletes Constellation Generation Group (CGG) as a respondent, and removes CGG from the service list.

(Comr Wood - ALJ Mattson)

Outcome Signed[D03-11-009](#)

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

9

[2901]

Res E-3855 - Southern California Edison Company (SCE).

This resolution approves SCE's amendments under its Tariff Rule 2, Added Facilities in order to serve its customer, Universal Studios. (Advice Letter 1751-E, filed October 9, 2003)

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

10

[2902]

Res W-4437 - Valencia Water Company (VWC).

This resolution authorizes VWC an offset rate increase producing additional annual revenues of \$488,200 or 3.3% for increases in the cost of purchased water. (Advice Letter 100, filed August 20, 2003)

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

11

[2903]

Res W-4436 - Yosemite Spring Park Utility Company (YSP).

This resolution authorizes YSP an interim general rate increase subject to refund, producing additional gross annual revenue of \$73,700 (6.95%).

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

12

[2905]

A03-07-028 - NetLojix Telecom, Inc. (Applicant).

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services, and limited facilities-based interexchange services. Applicant was previously authorized to resell interexchange services. This proceeding is closed.

(Comr Wood - ALJ O'Donnell)

Outcome Signed

D03-11-010

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

13

[2908]

Res T-16777

This resolution revokes, at the request of the companies, the wireless carrier, Non-Dominant Interexchange Carrier and Competitive Local Carrier Certificates of Public Convenience and Necessity held by the following companies (CPCN# attached): The Phone Company Franchising Corp. (#4048); National Accounts, Inc. (#5329); Premiere Communications, Inc. (#5370); LecNet, Inc. (#5409); Q.H. Communications, Inc. (#5442); QCC, Inc. (#5565); Trescom USA, Inc. (#5616); North American Communications Control (#5632); America's Tele-Network Corp. (#5687); North American Communications Control (#5632); America's Tele-Network Corp. (#5687); North American Telecommunications (#5958); Unity Communications, Inc. (#5969); Nextel Long Distance (#5989); California Network Management (#6092); Promise-Net International (#6123); Corporate Billing Management (#6215); XO Long Distance Services, Inc. (#6272); SureWest Broadband (#6299); Intermedia Communications, Inc. (#6302); TeleCents Communications, Inc. (#6367); Lockheed Martin Global Telecommunications Services, Inc. (#6460); Q Link Communications, Inc. (#6609); Trex Communications, Inc. (#6613); Prime Voice (#6646); Frontier Communications of America, Inc. (#6655).

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

14

[2909]

Res W-4438 - Del Oro Water Company, Lime Saddle District.

This resolution authorizes a rate increase producing \$6,540 or 2.8% in additional annual revenue due to an increase in purchased power costs.

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

15

[2911]

A03-05-034 - Watertek, Inc.

Watertek, Inc., a family water service company, seeks Commission authorization to sell and transfer ownership of three small water systems, two of them near Porterville and one near Fresno. The prospective purchasers are experienced water system operators who have been operating the three water systems on a contract basis since April 2003. The Commission's Water Division has investigated the proposed transfer and recommends approval. The application is granted. This proceeding is closed.

(Comr Brown - ALJ Walker)

Outcome Held (12/4/03, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

16

[2913]

A03-05-038 - Pacific Gas and Electric Company (PG&E) and Starlink Logistics Inc.

This decision grants PG&E's application to sell a parcel of land to Starlink Logistics, Inc. This proceeding is closed.

(Comr Kennedy - ALJ Bemdesderfer)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

17

[2914]

A03-07-018 - Hamidreza Tamjidi and First Class Transportation, LLC.

First Class Transportation, LLC is authorized to purchase and transfer the passenger stage corporation certificate of Hamidreza Tamjidi, and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

Outcome Signed

D03-11-011

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

- 18**
[2915] **A03-09-013 - Abdul K. Sharif dba Tri City Airport Shuttle.**
Abdul K. Sharif is authorized to operate as a passenger stage corporation between Contra Costa, San Mateo, Alameda, and San Francisco Counties, and San Francisco, Oakland, and San Jose International Airports, and to establish a zone of rate freedom. This proceeding is closed.
(Exam Clark)
Outcome Signed
D03-11-012
Yes: (Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (Brown)
- 19**
[2916] **A03-08-027 - AA Diversified Systems, Inc. dba Palm Springs, Ontario, LAX Airlink (Applicant).**
This decision authorizes Applicant to operate as a passenger stage corporation between the airports of Palm Springs, Ontario International, and Los Angeles International. This proceeding is closed.
(Exam Clark)
Outcome Signed
D03-11-013
Yes: (Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (Brown)
- 20**
[2920] **Res E-3846 - Southern California Edison Company (Edison).**
This resolution approves Edison's Second Gas Supply Plan for the State of California Department of Water Resources Tolling Agreements. (Advice Letter 1738-E, filed August 22, 2003)
Outcome Approved as Modified
Yes: (Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (Brown)
- 21**
[2921] **Res E-3845 - Pacific Gas and Electric Company (PG&E).**
PG&E requests approval of its Gas Supply Plan for the period of October 1, 2003 through March 31, 2004. The Gas Supply Plan documents the utility's strategy to implement the gas tolling provisions of certain California Department of Water Resources contracts it has been assigned to administer. PG&E's request is approved with modifications. (Advice Letter 2410-E, filed August 15, 2003)
Outcome Approved as Modified
Yes: (Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (Brown)

22 (ECP) C03-07-020 - MCI Metro Access Transmission Services (MCI) vs. Pacific Bell
[2923] **Telephone Company.**

This decision approves a settlement agreement between MCI and Pacific Bell Telephone Company dba SBC California. The agreement, as represented by the essential terms appended to the order, establish interim and permanent solutions to support MCI's request for its unbundled network element platform end-user voicemail offering in California. The complaint is dismissed. This proceeding is closed.

(Comr Brown - ALJ Reed)

Outcome Signed

D03-11-014

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

23 A03-08-016 - WorldCom, Inc. (WorldCom).
[2925]

This decision grants WorldCom an order pursuant to Pub. Util. Code §853(b) exempting the restructuring and certain related intra-corporate transactions undertaken to consummate WorldCom's Plan of Reorganization under Chapter 11 of the Federal Bankruptcy Code from prior Commission approval under Pub. Util. Code §§851 and 854. This proceeding is closed.

(Comr Peevey - ALJ Thomas)

Outcome Signed

[D03-11-015](#)

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

24 Res G-3360 - Southern California Gas Company (SoCalGas).
[2927]

This resolution approves SoCalGas' revisions to its tariff schedules to provide consistency with the tariffs of San Diego Gas & Electric Company, its sister company under Sempra Energy. (SoCalGas Advice Letter 3287, filed August 29, 2003)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

25

[2929]

Res E-3851 - San Diego Gas & Electric Company (SDG&E).

This resolution approves SDG&E Amendment No.7 of the Qualified Decommissioning Trust Agreement and Amendment No.5 of the Nonqualified Decommissioning Trust Agreement pursuant to Section 2.12 of the Qualified Trust Agreement and Section 2.10 of the Nonqualified Trust Agreement. The Amendments reflect the changes required by the Nuclear Regulatory Commission. (Advice Letter 1525-E, filed September 23, 2003)

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

26

[2930]

A00-10-044 - Altrio Communications, Inc. (Applicant).

This decision authorizes Applicant to offer full facilities-based local exchange service within the City of Pasadena. This proceeding is closed.

(Comr Wood - ALJ Pulsifer)

Outcome Signed

[D03-11-016](#)

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

27

[2933]

A88-03-024 - Southern California Edison Company (SCE).

On April 15, 2003, SCE filed its "Petition for Modification of D88-07-069, as Previously Modified by D89-08-021, D91-09-076, D94-07-026, D95-11-065, D99-06-018, and D00-07-012." In the Petition, SCE sought to extend its fuels-related debt financing authority from June 30, 2003 to June 30, 2008. This decision dismisses SCE's Petition as moot, because Commission action on a related, subsequently filed application (SCE's A03-07-029) eliminates the need to consider the issues raised in the Petition. This proceeding is closed.

(Comr Lynch - ALJ Evans)

Outcome Signed

D03-11-017

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

28

[2934]

A03-07-029 - Southern California Edison Company (SCE).

This decision grants SCE authority to issue \$750,000,000 Debt Securities to finance Fuels inventory, and approving its requested exemption from the Competitive Bidding Rule. This proceeding is closed.
(Exam Jackson)

Outcome Signed

D03-11-018

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

29

[2944]

Res T-16789 - Citizens Telecommunications Company of California, Inc. (Citizens).

This resolution approves a Resale Interconnection Agreement between Citizens and Quality Telephone, in accordance with the provisions of General Order 96-A and Resolution ALJ-181.
(Advice Letter 812, filed August 29, 2003)

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

Regular Agenda

Energy Orders

30

[2708]

A01-03-026 - PacifiCorp.

This decision adopts an unopposed settlement of the general rate increase revenue requirement for PacifiCorp for a 2002/2003 test year. In addition, the decision adopts an all-party settlement of the revenue allocation and rate design. The result is an overall revenue requirement increase of \$2.8 million over the revenues generated by the present rates, as opposed to PacifiCorp's requested increase of \$11.4 million. This proceeding is closed.

(Comr Kennedy - ALJ O'Donnell)

Agenda 3121, Item 4 10/16/2003 (Lynch)

Outcome Signed (Comr. Lynch reserves the right to join Comr. Wood's concurrence. Comr. Wood will file a concurrence.)

D03-11-019

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

31

[2868]

R01-08-027 - Order Instituting Rulemaking on the Commission's proposed policies and programs governing low-income assistance programs.

This decision addresses the recommendations contained in two Phase 4 Standardization Reports related to the Low-Income Energy Efficiency (LIEE) programs administered by Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company and San Diego Gas & Electric Company, collectively referred to as "the utilities". One report presents recommendations on which LIEE measures should continue to be offered under the program, based on cost-effectiveness considerations. The other addresses combustion appliance testing procedures and related policy issues. The Commission adopts the recommendations submitted by the utilities and their consultants on the cost-effectiveness results. However, the Commission makes two modifications to the recommendations regarding combustion appliance testing procedures, as discussed in this decision.

(Comr Wood - ALJ Gottstein)

Outcome Signed

D03-11-020

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

32

[2870]

R01-05-047 - Order Instituting Rulemaking on the Commission's own motion to determine whether baseline allowances for residential usage of gas and electricity should be revised.

This decision adopts a program whereby lower-middle income households may be exempt from Tier 3 electric surcharges, requires baseline quantities to be adjusted to exclude seasonal residence usage, requires that residential common area accounts be given the option to switch to commercial service, and requires utilities to update their rates, if needed, to comply with AB 1X. This proceeding is closed.

(Comr Brown - ALJ TerKeurst)

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

33 (Rev.)

[2882]

R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly 1X and D01-09-060.

This decision denies the Petition to Modify D03-04-057 filed by SBC Services, University of California/California State University, and California Large Energy Consumers Association, and also denies the Petition to Clarify D02-03-055 filed by Southern California Edison. The decision calls for additional comments to develop the record.

(Comr Brown, Comr Wood - ALJ Pulsifer)

11/12/2003 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Energy Resolutions and Written Reports**34** **Res E-3843 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).**
[2610]

PG&E, SCE, SDG&E filed tariff changes to implement the rules governing the rights and obligations of Direct Access (DA) customers to switch between bundled and DA service, as adopted in D03-05-034, the "Switching Order". Approved. (PG&E Advice Letter (AL) 2393-E, SCE AL 1717-E, and SDG&E AL 1508-E, filed June 23, 2003)

Agenda 3119, Item 36 9/18/2003 (Staff);

Agenda 3120, Item 41 10/2/2003 (Wood);

Agenda 3122, Item 35 10/30/2003 (Wood)

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

34a **ALTERNATE TO ITEM 2610**
[2890]

PG&E, SCE, SDG&E filed tariff changes to implement rules governing the rights and obligations of Direct Access (DA) customers to switch between bundled and DA service, as adopted in D03-05-034, the "Switching Order". Approved, with modifications. (PG&E Advice Letter (AL) 2393-E, SCE AL 1717-E, and SDG&E AL 1508-E, filed June 23, 2003)

(Comr Wood)

Agenda 3122, Item 35a 10/30/2003 (Wood)

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

35 **Res G-3359 - Pacific Gas and Electric Company (PG&E).**
[2867]

This resolution approves PG&E's refund plan for gas trenching costs to certain applicants for line extensions. (Advice Letter 2111-G, filed October 26, 1998)

Outcome Approved

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

36

[2891]

Res E-3814 - Southern California Edison Company (SCE).

SCE seeks Commission approval of one power purchase agreement contributing toward procurement of at least an additional one percent of the utility's annual electric sales from renewable energy resources irrespective of the utility's residual net short. (Advice Letter 1680-E, filed January 14, 2003) Agenda 3122, Item 36 10/30/2003 (Lynch)

Outcome Held (Discussed and held to 12/4/03. Voted 4-0 to circulate unredacted version to the public, but prices will remain redacted.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

36a

[2892]

ALTERNATE TO ITEM 2891

This alternate differs from the proposed Energy Division Resolution in that it approves one power purchase agreement which Southern California Edison (SCE) requests to enter into in 2003 to contribute toward procurement of at least one percent of the utility's annual electric sales from renewable energy resources.

(Comr Wood)

Agenda 3122, Item 36a 10/30/2003 (Lynch)

Outcome Held (Discussed and held to 12/4/03. Voted 4-0 to circulate unredacted version, but prices will remain redacted.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

37

[2928]

Res E-3854 - San Diego Gas & Electric Company (SDG&E).

This resolution approves, with modifications, SDG&E Gas Supply Plan for the period of October 1, 2003 through March 31, 2004, to be used in connection with its responsibilities related to certain California Department of Water Resources contracts which include gas tolling provisions. (Advice Letter 1518-E, filed August 15, 2003)

Outcome Approved as Modified

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

Telecommunication Orders**38 (Rev.)**
[2376] **R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.**

I01-09-002 - Related matters. This proposed decision addresses Phase 2A audit issues. The proposed decision finds that Pacific properly reported its pension and depreciation expenses during 1997 - 1999, but misreported its expenses during this period for PBOPs and income taxes. The proposed decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. These findings, together with the findings reached by the Commission in Phase 2B, result in Pacific owing a refund to its ratepayers in the amount of \$661 million, including interest through July 2003.

(Comr Kennedy - ALJ Kenney)

11/12/2003 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (12/18/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

38a
[2378] **ALTERNATE TO ITEM 2376**

This proposed alternate decision of the assigned Commissioner finds that Pacific Bell properly reported its pension and depreciation expenses during 1997-1999. The alternate finds that Pacific Bell properly wrote off certain PBOP's regulatory assets as expenses in 1998 when the Commission eliminated a rate surcharge that supported this regulatory asset. On other issues, the alternate finds that Pacific misreported expenses during this period concerning PBOPs sub-accounts and concerning income taxes. The alternate decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. Compared to the Administrative Law Judge's proposed decision, the alternate decision finds a lower level of misreported costs and orders a smaller refund. The alternate orders a total of \$162 million in refunds to ratepayers, including interest through July 2003.

(Comr Kennedy)

Outcome Held (12/18/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

39

[2571]

A99-03-025 - Roseville Telephone Company (Roseville).

On May 3, 2002, Roseville filed a petition to modify D01-06-077. Specifically, it asks to remove the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. This decision denies the petition and also requires Roseville to file for its next NRF review no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, the NRF reviews for Pacific Bell Telephone Company and Verizon California Incorporated. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

Agenda 3118, Item 42 9/4/2003 (Kennedy);

Agenda 3120, Item 46 10/2/2003 (Kennedy);

Agenda 3122, Item 39 10/30/2003 (Brown)

Outcome Held (12/4/03. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

39a

[2880]

ALTERNATE TO ITEM 2571

This alternate grants Roseville's petition to modify. This proceeding is closed.

(Comr Kennedy)

Agenda 3122, Item 39a 10/30/2003 (Brown)

Outcome Held (12/4/03. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

40

[2636]

R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.

I01-09-002 - Related matters. This proposed decision addresses Phase 2B audit issues. The proposed decision sustains most of the findings of an audit of Pacific's intrastate financial results for the period 1997-1999 that were considered during Phase 2B. This decision should be read in conjunction with the findings reached by the Commission in Phase 2A of this proceeding, which concludes that as a result of both decisions, Pacific owes a refund to its ratepayers in the amount of \$661 million, including interest through July 2003.

(Comr Kennedy - ALJ Thomas)

Outcome Held (12/18/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

40a

[2637]

ALTERNATE TO ITEM 2636

I01-09-002 - Related matters. This alternate proposed decision resolves Phase 2B audit issues. The alternate proposed decision sustains the analysis in the audit conducted by Overland on 51 of 68 issues, and reverses its findings on 17. The alternate proposed decision accepts Pacific's claim of lawyer-client confidentiality concerning certain information, but prohibits the booking of contingent liability accruals that rely on this information. The alternate resolves ambiguities in the Commission's process for resolving discovery disputes. Consistent with D01-06-077, the alternate orders Pacific to pay interest on the amounts due to customers at the 90-day commercial paper rate.

(Comr Kennedy)

Outcome Held (12/18/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

41

[2673]

C98-04-004 - The Utility Consumers' Action Network vs. Pacific Bell.

C98-06-003, C98-06-027, C98-06-049, I90-02-047 - Related matters. This decision awards Greenlining Institute and Latino Issues Forum \$338,405.16 for its contribution as intervenor to D01-09-058. These proceedings are closed.

(Comr Brown - ALJ Bushey)

Agenda 3121, Item 45 10/16/2003 (Kennedy);

Agenda 3122, Item 40 10/30/2003 (Wood)

Outcome Signed

D03-11-021

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

42

[2823]

R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.

I95-04-044 - Related matters. This decision implements a geographic split of the 909 Area Code to relieve impending code exhaust. The new 951 Area Code will be assigned to the region south of the split line.

(Comr Lynch - ALJ Pulsifer)

Agenda 3122, Item 41 10/30/2003 (Lynch)

Outcome Signed (Comr. Lynch will file a dissent.)

D03-11-022

Yes: (Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (Brown)

42a

[2826]

ALTERNATE TO ITEM 2823

I95-04-044 - Related matters. This decision concludes that adequate telephone numbers still exist in the 909 area code to provide customers and telephone carriers with sufficient service. It is not necessary at this time to split or overlay the 909 area code. Instead, the Commission should closely monitor the additional need for telephone numbers in the 909 area code to assure adequate telephone number supplies, implement its authority to increase the contamination rate in the 909 area code, and further advocate other number conservation proposals with the Federal Communications Commission. (Comr Lynch)

Agenda 3122, Item 41a 10/30/2003 (Lynch)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

43

[2931]

C02-11-053 - Pasadena Neighborhood Coalition vs. Altrio Communications, Inc. (Altrio).

Defendant Altrio has violated the terms of the Limited Facilities-Based Certificate of Public Convenience and Necessity (LFB CPCN) that was granted in D01-07-022. Altrio may not provide telephone service over its Open Video System network beyond its initial Pasadena hub unless it has obtained a full facilities-based CPCN. This proceeding is closed.

(Comr Brown - ALJ Simon)

Outcome Held (12/4/03. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Resolutions and Reports

44

[2843]

Res T-16783 - Cingular Wireless.

This resolution authorizes Cingular Wireless to deviate from Public Utilities Code Section 320 to apply an aerial strand and to install its wireless facility within 1,000 feet of Highway 50, a scenic highway located in El Dorado County, California. (Advice Letter 5, filed August 1, 2003)

Outcome Approved (Comr. Lynch will file a concurrence.)

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

Water/Sewer Orders**45**

[2368]

A02-11-057 - Point Arena Water Works, Inc.

For an order authorizing a rate increase in rates subject to refund producing additional annual revenues of \$70,137 or 56.9% for the test year 2002. This interim decision determines that 1995 tax refunds will not be included in the scope of this 2002 test year general rate case.

(Comr Wood - ALJ Bushey)

Agenda 3116, Item CA-16 7/10/2003 (Staff);

Agenda 3117, Item 5 8/21/2003 (Lynch);

Agenda 3118, Item 44 9/4/2003 (Lynch);

Agenda 3120, Item 48 10/2/2003 (Wood)

Outcome Held (12/18/03. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

45a

[2768]

ALTERNATE TO ITEM 2368

This alternate grants the City of Point Arena an opportunity to have an evidentiary hearing regarding the accounting and ratemaking treatment of income tax refunds.

(Comr Lynch)

Agenda 3120, Item 48a 10/2/2003 (Wood)

Outcome Held (12/18/03. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Transportation/Rail Safety Orders**46**

[2938]

I02-02-005 - Investigation on the Commission's own motion into the operations, practices and conduct of Starving Students, Inc., and Ethan Margalith.

This decision finds Starving Students violated Commission's rules and regulations that apply to performing intrastate moves, paying required regulatory fees, and maintaining proof of insurance. The Commission fines Starving Students \$20,903 in additional license fees and \$282,000 for consumer violations and operating during periods of suspension, and establish performance guarantees. The Commission imposes and stays a 180-day suspension and place Starving Students on three years' probation. This proceeding is closed.

(Comr Brown - ALJ Grau)

Outcome Signed

D03-11-023

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

Other Utility Orders**47**

[2836]

R03-02-035 - Rulemaking for the purpose of amending General Order 156.

This decision amends General Order 156 to eliminate exclusions. It also calls for the parties to recommend further amendments to GO 156 through the workshop process. This proceeding is closed.

(Comr Peevey - ALJ Econome)

Outcome Signed

D03-11-024

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

Legal Division Matters**69 (Rev.)**

[2969]

Res L-308

This resolution authorizes disclosure of Supplemental Direct Access Implementation Activity Reports submitted to the Energy Division by Southern California Edison Company, Pacific Gas and Electric Company and San Diego Gas & Electric Company. This item is added to the Agenda pursuant to Government Code Section 11125.3 (a)(2)

11/07/2003 - This item was not listed on the agenda distributed to the public.

11/07/2003 - This revision was not shown on the Agenda mailed to the public.

Outcome Approved (Voted 4-0 to add this item late to the Agenda pursuant to Government Code Section 11125.3(a)(2).)

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

Commissioner's Reports

48

Commissioners' Report

[2747]

Miscellaneous Commissioners' reports.

Outcome Information Only

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Management Reports and Resolutions**49**

[2748]

Management Reports

Miscellaneous Management reports.

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

50

[2948]

Executive Director William Ahern and Telecommunication Division Director Leutza Report

Voice Over Internet Protocol: Staff presentation regarding technology, public policy issues, and responses to Telecommunication Division Director Leutza letter of September 22, 2003.

Outcome Information Only

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the

Non-Federal Items

55

[2569]

R93-04-003 - Conference with Legal Counsel - Application for Rehearing.

I93-04-002 - Related matters. Disposition of Application for Rehearing of D02-12-081, filed by (1) the California Association of Competitive Telecommunications Companies, the Competitive Telecommunications Association, Association of Communications Enterprises, Office of Ratepayer Advocates, The Utility Reform Network, Pac-West Telecomm, Inc. and Working Assets long Distance (jointly) and (2) WorldCom, Inc., Time Warner Telecom of California, L.P., Pac-West Telecomm, Inc. and the California Association of Competitive Telecommunications Companies (jointly). D02-12-081 is the Commission's final decision on the Public Utilities Code Section 709.2(c) inquiry regarding Pacific Bell's application to provide intrastate interexchange telecommunications service.

Agenda 3117, Item 145 8/21/2003 (Staff);

Agenda 3119, Item 50 9/18/2003 (Staff);

Agenda 3121, Item 58 10/16/2003 (Staff)

Outcome Signed

D03-11-025

Yes: (Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (Brown)

56

[2907]

C02-03-060 - Conference with Legal Counsel - Application for Rehearing

Order disposing of application for rehearing of D03-08-036, filed by Anchor Lighting and Thomas H. Simcox. In D03-08-036, the Commission dismissed a complaint filed by these parties against Southern California Edison, in which they contended that they are small commercial customers of Edison who failed to receive the 10% rate reduction mandated by AB 1890.

Outcome Signed

D03-11-026

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

57

[2922]

C01-07-034 - Conference with Legal Counsel - Application for Rehearing

Disposition of Application for Rehearing of D03-08-025 filed by Mike Knell, dba JTR Publishing (Complainant). In D03-08-025, the Commission found that Complainant experienced service quality problems with both Pacific Bell and AT&T and that Complainant's residential telephone number was improperly published in directory assistance, despite Complainant's request for an unlisted telephone number. The Decision ordered refunds for any overcharges and ordered AT&T to provide a report addressing compliance with Public Utilities Code Section 2891.1.

Outcome Signed

D03-11-027

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

58

[2935]

R01-05-046 - Conference with Legal Counsel - Application for Rehearing

Disposes of the application for rehearing of decision D03-08-012 filed by the Greenlining Institute and Latino Issues Forum (Greenlining/LIF). D03-08-012 awarded intervenor compensation to the National Council of La Raza, the Southern Christian Leadership Conference and the California Rural Indian Health Board (jointly, La Raza). It denied the request of Greenlining/LIF for intervenor compensation in this proceeding.

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

59

[2939]

A02-03-059 - Conference with Legal Counsel – Application for Rehearing

Disposition of the application for rehearing of D03-05-031 filed by Pac-West Telecomm (Pac-West.) D03-05-031 modified and approved the arbitrated interconnection agreement (ICA) filed by Pacific Telephone Company (SBC) and Pac-West pursuant to subsection 252(e) of the Telecommunications Act of 1996 (Act). In D03-05-031, the Commission found that the ICA did not violate the requirements of subsection 252(d) of the Act. However, the Commission determined that a finding in the Final Arbitrator's Report of the ICA between Pac-West and SBC was inconsistent with Commission policy established in prior ICA cases, and therefore, the Commission modified that finding.

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

60

[2940]

A02-06-024 - Conference with Legal Counsel – Application for Rehearing

Disposition of the application for rehearing of D03-05-075 filed by Pac-West Telecomm (Pac-West.) D03-05-075 approved the arbitrated interconnection agreement (ICA) filed by Verizon California, Inc. (Verizon) and Pac-West pursuant to subsection 252(e) of the Telecommunications Act of 1996 (Act). In D03-05-075, the Commission found that the ICA did not violate the requirements of Section 251 of the Act, the Federal Communications Commission's (FCC) implementing regulations, or the pricing standards set forth in subsection 252(d) of the Act. However, the Commission determined that a finding in the Final Arbitrator's Report of the ICA between Pac-West and Verizon was inconsistent with Commission policy established in prior ICA cases, and therefore, the Commission modified that finding.

Outcome Held (12/4/03.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)